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JAN 09 2007

OFFICE OF PETITIONS

In re Patent No. 5,850,522 :
Issued: 15 December, 1998 :
Application No. 08/633,839 : DECISION ON PETITION
Filed: 10 April, 1996 :
Attorney Docket No.: 29815.0800 :
:

This is a decision on the petition filed on 29 November, 2005, under 37 C.F.R. §1.378(b) to accept as unavoidably delayed the maintenance fee for Patent No. 5,850,522 (the '522 patent).

The Office regrets the delay in addressing this matter, however, the file was received by the attorneys in the Office of Petitions only at this writing.

PLEASE NOTE:

There is no indication of record as of this writing that Petitioner herein ever was empowered in the instant matter. If Petitioner desires to receive future correspondence regarding this matter, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The petition is **GRANTED**.

I. BACKGROUND

This patent, which was filed originally on 10 April, 1996, as Application No. 08/633,839, issued on 15 December, 1998, as Patent No. 5,850,522 (the '522 patent). Payment of the first maintenance fee was not timely made. And the twenty-four month period following expiration has elapsed. Therefore, Petitioner's only remedy is a petition under 37 C.F.R. §1.378(b). The original petition, filed on 22 August, 2005, was dismissed on 29 September, 2005. The instant petition seeks to cure earlier deficiencies.

Accordingly:

- the first maintenance fee and surcharge, which were tendered on 22 August, 2005, have been charged and now are allocated and accepted at the then current amount;
- moreover, the second maintenance fee, which was tendered on 22 (and 25) August, 2005, and entered into the accounting on 6 January, 2006, also has been charged and now is allocated and accepted at the then current amount; and
- the above-identified patent hereby is reinstated as of the mail date of this decision.

This file is being returned to Files Repository.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2¹) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



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cc:

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¹ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.